

Colorado River Basin Project Central Arizona Project

LOCATION: The Central Arizona Project is located in Maricopa, Pima, Gila, La Paz, Mohave, Coconino, Yavapai, and Pinal Counties of Arizona; San Bernardino County, California; Clark County, Nevada; Grant County, New Mexico; and Kane and Washington Counties, Utah. The transmission lines serve both power and water development portions of the project. They are located in Coconino, Mohave, Yavapai, and Maricopa Counties, Arizona; Kane and Washington Counties, Utah; Clark County, Nevada; and San Bernardino County, California. The Non-Indian Distribution Systems are located in Maricopa, Pinal, and Pima Counties, Arizona.

DESCRIPTION/JUSTIFICATION: The Central Arizona Project is a multipurpose water resource development and management project which provides irrigation, municipal and industrial water, power generation, flood control, outdoor recreation, environmental enhancement, and sediment control. In addition, the project will provide delivery of tribal homeland water, partial settlement of Indian water rights claims, and economic benefits accruing from leasing of Indian agricultural water rights to municipal entities. It will provide a partial replacement water supply to 417,773 acres of irrigable lands, which consists of 280,873 acres of non-Indian agricultural land and up to 136,900 acres of reservation land. This increase of 43,552 acres is due to settlement negotiations concerning operation and repayment of the project and Indian water right claim negotiations. In addition, there is up to 670,000 acre-feet of water provided annually for direct municipal and industrial use. The water demand was re-estimated in the 1996 Water Supply Study and, beginning in FY 1997, incorporated into the official cost allocation. In 2000 the water supply delivery estimates were modified to reflect the agreements reached under the settlement negotiations. Benefits to recreation, flood, and sediment control are provided. The sediment control benefits associated with Buttes Dam, Middle Gila Division have been indefinitely deferred. The maximum benefits for recreation will be realized upon completion of the recreation development associated with Tucson Reliability construction. Benefits for flood and sediment control were realized upon completion of the modified Theodore Roosevelt Dam in 1996 along with the power benefits associated with the completed New Waddell Dam. In addition, a power entitlement of 546,750 kilowatts is available to the project through terms of the Navajo Project Participation Agreement.

AUTHORIZATION: P.L. 90-537, Colorado River Basin Project Act, September 30, 1968; P.L. 97-293, Southern Arizona Water Rights Settlement Act of 1982, Title II, October 12, 1982; P.L. 97-373, Amend Colorado River Basin Project Act, December 20, 1982; P.L. 100-512, Salt River Pima Maricopa Indian Community Water Rights Settlement Act, October 20, 1988; P.L. 101-628, Fort McDowell Indian Community Water Rights Settlement Act of 1990, December 28, 1990; P.L. 102-497, To Make Technical Amendments to Certain Indian Statutes, October 24, 1992; P.L. 102-575 - Title XXXVII, San Carlos Apache Tribe Water Rights Settlement Act of 1992, October 30, 1992, as amended; P.L. 102-575 - Title XXXIX, Siphon Repair and Replacement, October 30, 1992; and P.L. 103-434 Title I, Yavapai-Prescott Indian Water Rights Settlement, October 31, 1994.

COMPLETION DATA: Initial operation of the Navajo Generating Station began on May 31, 1974. Initial operation of the last (third) generating unit began April 30, 1976. Initial water via the Hayden-Rhodes Aqueduct was delivered to the Phoenix metropolitan area in 1985. Initial water delivery was made to users of the Fannin-McFarland Aqueduct and to users in Pinal County in 1986. Initial water

delivery to the Ak-Chin Indian Community was made in June 1987. Water deliveries to northern Pima County were made in 1989 and were made to the Tucson area in August 1992.

Water delivery to the Salt River Pima Maricopa Indian Community began in July 1997. The completion date of July 12, 1993, for San Xavier and Schuk Toak Districts of the Tohono O'Odham Nation was established by the Southern Arizona Water Rights Settlement Act, as amended. Notice was given to the Tohono O'Odham Nation on September 25, 1992, that the Central Arizona Project aqueduct was capable of making canal side water deliveries. Water deliveries to the Schuk Toak District began in 2000, ahead of the schedule shown in the FY 2001 budget request. The current schedule for the existing San Xavier Farm anticipates starting partial deliveries in late 2000, with full deliveries by 2005. Construction of the reservation delivery systems has been delayed due to difficulties in reaching agreement on implementation of the portion of the Act dealing with the allottee water rights on the San Xavier District. Additional legislation may be required to resolve issues relating to full implementation of the Act. Fort McDowell Indian Community preconstruction activities authorized under the Central Arizona Project were completed in September 1991. Construction of their delivery system was accomplished under the Small Reclamation Projects Act, as required by the Fort McDowell Indian Community Water Rights Settlement Act of 1990, P.L. 101-628. The Yavapai-Prescott Indian Community's water settlement was ratified October 31, 1994. This resulted in a water right allocation exchange agreement dated December 28, 1995, between the Cities of Scottsdale, Prescott, and Nogales; Cottonwood Water Works; Mayer Domestic Water Improvement District; Rio Rico Utilities; and Camp Verde Water System, Inc. Under the agreement, any financial compensation for the Community's water allocation may only be used towards water development. The Gila River Indian Community delivery and distribution system is under construction, with completion anticipated after 2012. The Community will progressively complete system components resulting in staged water deliveries beginning in 2005, with full deliveries sometime after 2012. Firm water delivery dates for the remaining Indian communities (Sif Oidak - formerly Chui Chu, San Carlos-Apache, Pascua Yaqui, Camp Verde, and Tonto Apache) will be determined as planning develops.

Water deliveries to the Non-Indian Distribution Systems were made to Harquahala Valley Irrigation District in 1985; Tonopah Irrigation District and Chaparral City Water Company in 1986; and New Magma Irrigation and Drainage District in 1987. Full deliveries were made to Queen Creek, San Tan, and Chandler Heights Citrus Irrigation Districts in 1989. Full deliveries were made to Maricopa-Stanfield and Hohokam Irrigation and Drainage Districts in 1990. The Central Arizona Irrigation and Drainage District was capable of receiving full deliveries in February 1991.

As of September 30, 2000, the Central Arizona Project is 83 percent complete. The Central Arizona Project, Water and Power Development, and the Non-Indian Distribution Systems are included in the percent complete.

SUMMARIZED FINANCIAL DATA

Program Financial Data

Activity	FY 2001	FY 2002
Water and Energy Management and Development	\$82,163,984	\$33,313,000
Land Management and Development	1,240,000	629,000
Facility Operations	0	105,000
Total Program	\$83,403,984	\$34,047,000
Prior Year Funds	(98,984)	0
Non-Federal Cash Participation	(1,000,000)	(1,055,000)
Non-Federal Non-Cash Participation	(42,838,000)	(1,550,000)
Enacted /Request	\$39,467,000	\$31,442,000
Underfinancing	0	0
FY 2001 Rescission (P.L. 106-554)	(87,000)	0
Total Reclamation Allotment	\$39,380,000	\$31,442,000

Total Construction Costs to be Allocated

	Total Estimated Cost	Total to 9/30/00	FY 2001	FY 2002	Balance to Complete
Lower Colorado River Basin Development Fund <u>1/</u>	\$4,117,896,000	\$3,157,142,000	\$39,380,000	\$31,392,000	\$889,982,000
Non-Indian Distribution Systems <u>2/</u>	241,309,591	241,309,591	0	0	0
Project Total	\$4,359,205,591	\$3,398,451,591	\$39,380,000	\$31,392,000	\$889,982,000
Adjustments <u>3/</u>	797,407,211	732,646,801	43,838,000	2,550,000	18,372,410
Total Costs	\$5,156,612,802	\$4,131,098,392	\$83,218,000	\$33,942,000	\$908,354,410

1/ Represents total Federal obligations financed under authority of section 309(a), P.L. 90-537, Colorado River Basin Project Act for the Lower Colorado River Basin Development Fund.

2/ Represents total Federal obligations financed under authority of section 309(b), P.L. 90-537, Colorado River Basin Project Act, as amended by P.L. 97-373.

3/ This amount includes \$2,529,000 for Central Arizona Project and \$-72,000 for the Non-Indian Distribution Systems for transfer of property; \$229,089,000 contributions provided on modified Plan 6 by local entities; \$11,129,000 for recreation provided by Maricopa County; \$11,124,000 by cost-sharing partners for Tucson Terminal Storage and the Central Arizona Project aqueduct recreation; \$59,433,863 for non-cash contributions provided by the repayment entities for the Non-Indian Distribution Systems;

\$985,000 advanced by the State of Arizona for advance planning work; \$861,838 provided by Maricopa County for construction of Castle Hot Springs Road; \$638,478 provided by Salt River Project for the upgrade to the Theodore Roosevelt Dam Powerplant; and \$300,000 contributed by the State of New Mexico for drilling at Conner damsite. The City of Tucson's contribution of \$84,039 for the Tucson Pipeline is included and the Central Arizona Water Conservation District's contribution of \$98,645 for a modification of the New River Siphon replacement along with an estimated \$46,047,000 in non-Federal construction by CAWCD for deficiency work for the Aqueduct, Permanent Operating Facilities and New Waddell. The adjustment also includes \$96,458 reimbursable municipal and industrial interest during construction for the Non-Indian Distribution Systems for Chaparral City Water Company, Queen Creek Irrigation District, Chandler Heights Citrus Irrigation District, and San Tan Drainage District. Interest during construction on the Lower Colorado River Basin Development Fund is \$298,999,447 for municipal and industrial, and \$136,063,443 for commercial power.

Construction Cost Allocation and Methodology

Allocation	FY 2001	FY 2002
Irrigation <u>1/</u>	\$1,314,650,093	\$1,431,144,944
Power	668,018,937	664,853,547
Municipal and Industrial Water	1,506,351,361	1,370,626,076
Recreation	161,715,854	161,741,535
Environmental Enhancements <u>2/</u>	288,000	288,000
Flood Control	123,968,478	123,855,813
Non-Indian Distribution Systems <u>3/</u>	300,759,047	300,767,912
Indian Distribution Systems <u>4/</u>	581,759,000	610,430,000
Other <u>5/</u>	105,389,277	104,110,812
Unallocated Costs <u>6/</u>	378,468,163	388,794,163
Total	\$5,141,368,210	\$5,156,612,802

1/ For FY 2002 includes \$990,434,245 for costs allocated to Indian irrigation which is eligible for deferral under the Leavitt Act and \$440,710,699 which is allocated to non-Indian irrigation and is reimbursable.

2/ Environmental enhancement is one of the originally authorized project purposes under Title III, Section 301(a) of P.L. 90-537. Sierra Vista, San Pedro Wetlands was transferred to the Wetlands Development Program from the Central Arizona Project consistent with the direction contained in the FY 1998 Energy and Water Development Appropriations Act Conference Report.

3/ Includes all costs associated with the Non-Indian Distribution Systems. These costs are not allocated as part of the Central Arizona Project allocation procedure, but are assigned directly to the entities constructing and repaying these facilities. Systems include those for municipal use, \$4,524,173 and ten irrigation districts, \$296,243,739.

4/ Indian water may be used for irrigation, domestic, municipal, and industrial purposes on the reservations in accordance with the Secretary's Decision published March 24, 1983.

5/ Includes non-reimbursable costs of \$40,529,535 for cultural resources as authorized under Section 7 of the Archeological and Historic Preservation Act of 1974 (P.L. 93-291), \$3,500,000 for Pima County flood and erosion control near the City of Marana, and \$55,250,000 non-reimbursable siphon repair costs as authorized under Title XXXIX of P.L. 102-575. Also, includes prepaid costs of \$985,000 for the State of Arizona, \$963,000 for contributed investigation costs, \$900,277 for the Colorado River Division studies, \$861,838 from Maricopa County, Arizona, \$638,478 from Salt River Project for Reclamation to evaluate increasing power generation at the Theodore Roosevelt, \$300,000 from the State of New Mexico, \$84,039 from the City of Tucson for the Tucson pipeline, and \$98,645 from Central Arizona Water Conservation District for New River Siphon modification.

6/ Includes costs of \$336,769,000 for the Middle Gila Division and Upper Gila Division which will be allocated when all the beneficiaries and repayment entities are identified and functions determined. Also includes \$52,025,163 for the Drainage Division. Construction of these features has been deferred indefinitely.

METHODOLOGY: The same methodology was used for cost allocation as that presented in the FY 2001 Budget Justifications. The allocations for FY 2002 also incorporate changes in total costs. The following is a summary of impacts on individual allocations:

Irrigation increased \$116,494,851 due to an increase in the joint costs related to changes in the water supply. The water supply period was extended four years and the amount of Indian irrigation water increased significantly during the study period.

Power decreased \$3,165,390 as a result of the increase in costs allocated to the joint costs associated with irrigation.

Municipal and Industrial water decreased \$135,725,285 as a result of the increase in costs allocated to irrigation and the associated joint costs.

Recreation increased \$25,681 due to revised plans for development of recreation associated with the CAP Aqueduct and indexing estimates for Tucson Reliability recreation. This was partially offset by increased cost sharing mandated by the cost increases and decreases for completed campgrounds at Roosevelt Lake.

Environmental Enhancement did not change.

Flood Control decreased \$112,665 due to a decrease in joint costs allocated to Theodore Roosevelt Dam.

Non-Indian Distribution Systems increased \$8,865 as a result of increased costs for completing cultural mitigation. In addition, final audit findings determined construction costs were higher. These cost increases were offset by further contributions by the Water Districts, to maintain the requisite 20 percent cost sharing.

Indian Distribution Systems increased \$28,671,000 due primarily to indexing to October 2001 projected prices, especially for the Gila River Indian Community's remaining works. There was also an increase for the completion of the Schuk Toak system. The increases were partially offset by decreases associated the reallocation between CAP and the Southern Arizona Water Rights Settlement Act of San

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Xavier Rehabilitation and San Xavier New Farm systems and completion of the Yavapai Prescott project activities.

Other decreased \$1,278,465 primarily as a result of lower costs for completed siphon repairs and deficiency work.

Unallocated Costs increased \$10,326,000 due to indexing to October 2001 projected prices.

OTHER INFORMATION:

Water Allocations: A final notice of allocation of project water for Indian irrigation use was published in the Federal Register on October 18, 1976. On December 1, 1980, the Secretary announced a modified allocation and raised the Indian's priority for receiving water. The modified allocation also increased the amount of project water allocated to Indian irrigation to 309,828 acre-feet. Ten contracts providing water to 12 Indian communities have been executed. The Secretary approved the allocation of project water to non-Indian irrigation users and municipal and industrial water users on February 10, 1983. Settlement negotiations concerning operations and repayment of the Central Arizona Project resulted in a Stipulated Settlement filed with the Federal Court May 9, 2000. As part of the stipulation it was agreed 200,000 acre feet of water, previously allocated to non-Indian agriculture, would be reallocated to assist in the settlement of the Indian claims. A draft environmental impact statement, with this reallocation as the proposed action, was prepared and released for public review and comment on June 23, 2000. Work on the environmental impact statement for the water reallocation has been suspended as directed by Section 202 of Division B, Title I, Chapter 2 of P.L. 106-246, which states, "*Notwithstanding any other provision of law, no funds provided in this or any other Act may be used to further reallocate Central Arizona Project water or to prepare an Environmental Assessment, Environmental Impact Statement, or Record of Decision providing for a reallocation of Central Arizona Project water until further Act of Congress authorizing and directing the Secretary of the Interior to make allocations and enter into contracts for delivery of Central Arizona Project water.*" This restriction was extended until September 30, 2001, by a provision in the FY 2001 Energy and Water Development Appropriations Act.

Water Service Contracts: A water service subcontract form was approved by the Secretary in July 1983 and by the Central Arizona Water Conservation District in November 1983. Ten of the 15 non-Indian irrigation allottees have signed subcontracts. This represents 71 percent of the non-Indian irrigation water. Sixty-six of the 71 municipal and industrial allottees have signed subcontracts. These subcontracts represent 558,511 acre-feet or 87 percent of the municipal and industrial water allocation. In March 1991, the State of Arizona provided recommendations to the Secretary for uncontracted water. On February 5, 1992, the Secretary published in the Federal Register the final notice reallocating 29.3 percent of the project water supply which was allocated to non-Indian agricultural uses, but not yet contracted. Draft contracts were developed by Reclamation but never offered due to independent and unapproved contract actions taken by the Central Arizona Water Conservation District. The Arizona Department of Water Resources sent recommendations to the Secretary of the Interior on January 20, 2000, that allocate the remaining current unallocated municipal and industrial priority water to various municipal and industrial entities within the State. When all the conditions for settlement of Central Arizona Project operations and repayment issues are satisfied, contracts will be entered into for the remaining uncontracted Central Arizona Project water supply in accordance with the settlement documents and agreements.

Power: The Colorado River Basin Project Act provided for the Secretary of the Interior to enter into an agreement with non-Federal interests, whereby the Federal government acquired the right to 24.3 percent of the power produced at the non-Federal Navajo Generating Station. The agreement also includes the delivery of power and energy over the transmission facilities to delivery points within the Central Arizona Project area.

On September 18, 1991, the Environmental Protection Agency approved a ruling that formalized the agreement that had been negotiated among the Environmental Protection Agency, environmental groups, and owners of the Navajo Generating Station over visibility degradation pollution. This resulted in an agreement to install sulfur dioxide scrubbers at the plant. The project's share of the estimated construction cost of installing the scrubbers is approximately \$101.9 million. The scrubbers are installed and are operational.

Plan 6: As originally authorized, the Central Arizona Project included Orme Dam and Reservoir. In 1984, Plan 6 replaced this regulatory storage component of the Central Arizona Project. Plan 6 originally included New Waddell Dam, Modified Theodore Roosevelt Dam, and Cliff Dam. In June 1987, Cliff Dam was deleted from Plan 6 by mutual agreement with the State, the Secretary, Congressional, and environmental interests.

Federal and local officials executed an agreement on local funding for Plan 6 on April 15, 1986. The agreement requires non-Federal parties to contribute funds of approximately \$229 million available to the United States to expedite the construction of Plan 6 and to ensure the timely completion of all Central Arizona Project features. (This funding excludes approximately \$36 million of Safety of Dams funding for work at Theodore Roosevelt, Stewart Mountain, Horseshoe, and Bartlett Dams.) The entities contributing funds under the agreement include: Central Arizona Water Conservation District; Maricopa County Flood Control District; Salt River Project Agricultural Improvement and Power District and Salt River Valley Water Users Association; and the cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe. Local funds first became available under the agreement in August 1986. Construction of all Plan 6 facilities, including Safety of Dams, is substantially complete. The funding agreement was amended in October 1987, to reflect the deletion of Cliff Dam from Plan 6. The funding agreement was amended on December 21, 1993, to reassign the water rights and repayment obligation of the Hohokam Irrigation and Drainage District to the Plan 6 cities to satisfy their Cliff Dam water entitlement. Section 4(a) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of October 1988, P.L. 100-512, provided the Community with 7,000 acre-feet of water from the cities' share of the new conservation space behind Theodore Roosevelt Dam. This decreased the cities' contribution by \$1,207,000. This portion of Theodore Roosevelt Dam was federally funded in FY 1995 from Reclamation's Indian Water Rights Settlement Act Project.

Siphon Repair: The Central Arizona Water Conservation District submitted a tort claim and filed a civil action against the United States on January 24, 1992, in the amount of \$146.7 million for breach of contract due to the cost associated with repair and replacement of the corrosion damaged siphons. The Court of Federal Claims dismissed, without prejudice, the civil claims on December 14, 1992. The tort claim remains pending. Title XXXIX, Siphon Repair and Replacement, of P.L. 102-575, made 50 percent of the siphon repair costs non-reimbursable. Concurrent with the claims filed against the United States,

similar claims were filed by the Central Arizona Water Conservation District against the original contractors and subcontractors of the siphons. On September 13, 1994, the case was dismissed because the Central Arizona Water Conservation District was not a party to the contracts. Reclamation studies determined that the principle causes of the siphon deterioration was defective wire used to reinforce the concrete pipe and incomplete encasement of the prestressing wire with portland cement slurry and mortar coating. On November 3, 1992, Reclamation issued a show cause letter to the original siphon contractor giving him until January 29, 1993, to submit a plan to resolve all issues. The contractor denied responsibility. The final Contracting Officer's Decision was rendered September 28, 1995. On June 8, 1999, the Judge issued a decision denying the contractor's Motion for Partial Summary Judgement. The hearing began on November 6, 2000. On January 4, 2001, the judge issued an order staying trial proceedings pending the parties' attempts to resolve the appeals through mediation. Mediation began on January 29, 2001 and the parties reached a preliminary agreement on February 2, 2001. The detailed terms of the settlement are currently being negotiated. Repairs have been completed on three of the six siphons. Under the lawsuit, Reclamation sought compensation from the initial contractor in the amount of \$39.5 million. The total cost to repair all six siphons is estimated at \$110.5 million. The decrease of \$3.5 million is due to lower costs on completed construction.

Gila River Biological Opinion Litigation: On April 20, 1994, pursuant to Section 7 of the Endangered Species Act, the U.S. Fish and Wildlife Service issued its final Biological Opinion on the transportation and delivery of Central Arizona Project water to the Gila River Basin. The Opinion concluded that long-term deliveries of Central Arizona Project water would jeopardize the continued existence of four native threatened or endangered fish species. In order for the project to avoid the likelihood of jeopardizing the continued existence of these species, the U.S. Fish and Wildlife Service identified several reasonable and prudent alternatives that Reclamation would be required to implement. The measures include construction of fish barriers, public education programs, fish monitoring, and long term funding for research and conservation actions.

On March 7, 1997, the Southwest Center for Biological Diversity filed a lawsuit in U.S. District Court in Phoenix, Arizona, alleging the Opinion was inadequate and both Reclamation and the U.S. Fish and Wildlife Service were in violation of the Endangered Species Act. The government's response to the complaint was filed July 7, 1997. On July 14, 1997, the Central Arizona Water Conservation District filed a Complaint in the U.S. District Court, in Arizona against the Secretary of the Interior, U.S. Fish and Wildlife Service, and Reclamation on the Gila River Biological Opinion. The complaint requested that the court find the Gila River Biological Opinion legally inadequate, instruct Reclamation to cease implementation of the reasonable and prudent measures and instruct the U.S. Fish and Wildlife Service to prepare a new Opinion.

On August 24, 1997, both lawsuits against the Secretary were consolidated. On October 23, 1997, Reclamation and U.S. Fish and Wildlife Service filed an administrative record. The Central Arizona Water Conservation District filed a motion on December 19, 1997, for summary judgement, and on February 6, 1998, the government filed a motion and memorandum in support of cross motion for summary judgement and in opposition to Central Arizona Water Conservation District's motion for summary judgement. The Southwest Center for Biological Diversity filed its brief in opposition to Central Arizona Water Conservation District's motion for summary judgement on March 6, 1998. The

government's reply in support of initial cross motion was filed April 3, 1998. An initial order was issued in October 1999, denying Central Arizona Water Conservation District's motion for summary judgement. Oral arguments for and against Southwest Center for Biological Diversity's complaint were heard by the Federal court on July 27, 2000. The court requested that the Southwest Center for Biological Diversity submit a supplemental brief on the issue of remedy. The Southwest Center for Biological Diversity's brief, filed August 7, 2000, requested that Reclamation re-initiate consultation with the Fish and Wildlife Service to formulate more comprehensive measures against non-native fishes in the CAP aqueduct, while at the same time continuing implementation of existing Reasonable and Prudent Alternatives. The Southwest Center for Biological Diversity also requested that "the water connections between the CAP and the habitat of listed fishes be severed during the reconsultation." The Federal government filed its reply brief August 17, 2000, alleging it would be illegal to reconsult while continuing to implement prior Reasonable and Prudent Alternatives.

The District Court ruling on September 26, 2000 may provide injunctive relief which could interrupt project water deliveries to the Gila River Indian Community. The ruling denied in part and granted in part the Center's motion. The court ruled the Reasonable and Prudent Alternatives were not arbitrary and capricious, but that the amendments to the Biological Opinion issued by U.S. Fish and Wildlife Service to grant more time for Reclamation to implement the Reasonable and Prudent Alternatives were arbitrary and capricious, and therefore directed Reclamation to reinitiate consultation. The court further ruled that Reclamation was in violation of Section 9 because "take" of listed species was imminent, and that the "take" was attributable to project water deliveries. Take was defined as being the loss of native fish from the Gila River Basin as measured by annual surveys. However, the Court found the Center's request for injunctive relief, "to sever the water connections between the Central Arizona Project and the habitat of listed species", too vague. On October 11, 2000, the government filed a Motion for Reconsideration of the Section 9 "take" ruling and requested an evidentiary hearing on the question of take. On December 13, 2001, the court ruled against the government's Motion for Reconsideration and scheduled a hearing on the subject of relief for April 17, 2001. The court further ordered that construction of the Aravaipa fish barriers and reconsultation of the Biological Opinion must be completed by the April 17, 2001, hearing. If reconsultation and fish barrier construction are not completed, the court may issue an injunction which could preclude water deliveries to the Gila River Indian Community. The Reasonable and Prudent Alternatives are being implemented and will continue to be implemented.

Southwestern Willow Flycatcher Litigation: Reclamation initiated formal consultation with the U.S. Fish and Wildlife Service on potential impacts from operation of the Modified Roosevelt Dam on the endangered southwestern willow flycatcher in September 1995. On January 8, 1996, Reclamation was sued by the Southwestern Center for Biological Diversity which alleged that Reclamation should supplement its 1990 environmental assessment on Modified Roosevelt Dam due to newly identified impacts to the flycatcher. Upon issuance of the U.S. Fish and Wildlife Service's Biological Opinion on July 23, 1996, and in response to a "joint motion to stay and stipulation" in the lawsuit, Reclamation issued a final environmental assessment on the potential impacts to the flycatcher at Roosevelt Lake on November 18, 1996. Reclamation concluded the environmental assessment with a Finding of No Significant Impact citing the U.S. Fish and Wildlife Service's reasonable and prudent alternative as adequate mitigation for the new impacts.

On February 7, 1997, the Southwest Center for Biological Diversity filed an amended complaint which included a request for an injunction against the use of the new conservation space behind the Modified Roosevelt Dam until a supplemental environmental impact statement has been prepared and a new Opinion issued by the U.S. Fish and Wildlife Service. The government's response to the complaint was filed on May 8, 1997. The Salt River Project, and the cities of Phoenix, Scottsdale, Mesa, Tempe, and Chandler have intervened in the lawsuit. On July 1, 1997, the Southwest Center for Biological Diversity filed a motion for leave to file a second amended complaint which essentially clarified the relief requested by the plaintiffs. On July 15, 1997, the Salt River Pima-Maricopa Indian Community filed a Motion to Dismiss for Failure to Join an Indispensable Party. The hearing on the Salt River Pima-Maricopa Indian Community's motion to dismiss for "failure to join an indispensable party under Rule 19 Federal Rules of Civil Procedure" was heard on December 4, 1997, in the United States District Court for the District of Arizona. On December 12, 1997, the Southwest Center for Biological Diversity's lawsuit was dismissed on the basis of tribal sovereign immunity.

On February 4, 1998, Southwest Center for Biological Diversity appealed the district court's final judgement to dismiss the lawsuit for inability to join the Indian Community because of its sovereign immunity seeking a reversal. The U.S. Department of Justice, representing Reclamation, filed an Appellee brief on March 9, 1998. Oral argument was presented to the 9th Circuit Court on June 9, 1998.

On August 6, 1998, the 9th Circuit Court of Appeals ruled in favor of the Southwest Center for Biological Diversity, reversing the district court's dismissal of this suit, and remanding the suit for further proceedings. The original suit against the Secretary of Interior, now reinstated, alleges the government's plan to begin using the modified reservoir behind Roosevelt Dam violates the Endangered Species Act and the National Environmental Policy Act. The Southwest Center for Biological Diversity seeks to prevent the new capacity from being filled until further environmental study is completed. Oral arguments were heard by the judge on July 23, 1999.

On March 12, 2000, the Federal judge ruled on the Southwest Center for Biological Diversity's motion for summary judgement. On the question of the adequacy of the U.S. Fish and Wildlife Service's biological opinion, the court concluded that the U.S. Fish and Wildlife Service fully complied with the requirements under the Endangered Species Act. On the question whether Reclamation violated the National Environmental Policy Act, the court concluded that Reclamation did not act arbitrarily or capriciously in its evaluation of alternatives in the 1996 environmental assessment and that Reclamation did not violate the National Environmental Policy Act. It is not known at this time whether the Southwest Center for Biological Diversity will appeal this decision.

APPROPRIATION CEILING: Appropriations authorized are \$4,001,114,000 (October 2001). The comparable Federal obligation is \$4,117,896,000 which exceeds the appropriation ceiling by more than the amount of contingencies included in the obligation. Legislation to provide additional appropriation ceiling would be needed to complete the total project as authorized. Current estimated commitments are within the existing ceiling due to the indefinite deferral of \$378,411,225 for the Upper Gila Division, Middle Gila Division, and Drainage System.

The Non-Indian Distribution Systems authorized by Section 309(b) of P.L. 90-537 and P.L. 97-373 were completed in FY 1997. The current Federal obligation is \$241,309,591. The authorized ceiling at the time of completion was \$347,466,000 (October 1996).

WORK PROPOSED FOR FY 2002:

Water and Energy Management and Development - The aqueduct system, consisting of Hayden-Rhodes, Fannin-McFarland, Tucson and Transmission Divisions, has been substantially completed and moved to completed work. Only completion of the deficiency work remains on these features. Activity funding is being requested to provide for:

<u>Hayden-Rhodes Deficiency Work</u> - Continue tendon repairs on the Hassayampa, Centennial and Jackrabbit siphons. Completes litigation support for the siphon claim.	\$1,597,000
Non-Federal Services - Central Arizona Water Conservation District	<u>(1,400,000)</u>
	197,000

Regulatory Storage Division - New Waddell Dam - Continues the last environmental impact statement commitment for New Waddell, the fish limnology follow-up study, and associated fish and wildlife coordination activities. Efforts to close out the financial and contractual aspects of this feature will continue. Completes work on the Maricopa Water District's conference building settlement problems and the New Waddell Dam operating agreement. 352,000

Theodore Roosevelt Dam - Continues construction of recreation enhancements. Other continuing activities required to comply with environmental laws, and Section 7 Biological Opinion for the endangered southwestern willow flycatcher include the aerial photography, update of the geographical information system, cowbird management program, the flycatcher management fund and banding program, habitat and nest monitoring and dispersal, and the management and oversight of the San Pedro Preserve. Program administration and financial management will continue for ongoing activities, recording of the water rights to the new conservation space in the reservoir, reviewing allocable costs for completed work and planning for future work. Work will be completed on the flycatcher habitat monitoring and the Heritage Education program. 3,892,000

Non-Federal Cash Participation - The central Arizona cities will continue to make Plan 6 Upfront Funding Agreement contributions for activities associated with construction of additional water storage space at Theodore Roosevelt Reservoir.	<u>(1,000,000)</u>
Total Regulatory Storage Division	3,244,000

Tucson Reliability Division - Continues partnership with the City of Tucson and other Tucson area water users to design a system utilizing project water. Includes providing a comparable level of short-term reliability to the Tucson Aqueduct users as exists on the Hayden-Rhodes and Fannin-McFarland Aqueduct for the water users in the greater Phoenix metropolitan area. Continues the feasibility study on northwest area reliability options. 375,000

Indian Distribution Division - Continues ongoing efforts under a self-governance (Public Law 93-638, Title IV) annual funding agreement with the Gila River Indian Community, which includes design of the main

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stem system, construction of the North Canal, ongoing right of way acquisition, cultural resource surveys and mitigation, tribal supervision and administration of the program, and Reclamation oversight. Other continuing efforts include a P.L. 93-638 Contract with the San Carlos Apache for planning and design of an irrigation system and Reclamation oversight, rehabilitation of the San Xavier Existing Farm, tribal coordination, program oversight and administration of Tonto Apache, Camp Verde Yavapai Apache, Sif Oidak (formerly Chui Chu) distribution systems and general Indian Distribution System program administration. 24,420,000

Other Project Costs - Program Administration - Continues project management activities for the consolidated Central Arizona Project. These activities include implementation of the stipulated settlement agreement, and preparation of reports on the entire project to meet Congressional and Departmental requirements relating to the project's overall construction program. In addition, work is anticipated to continue coordinating with the State and water users on water contracts and preparing the final environmental impact statement on the water allocation changes. 248,000

Curation Facilities - Begin study of chronometric dating of petroglyphs and 10-year commitment to provide curatorial services for the CAP artifact collection prior to the Gila River Indian Community assuming responsibility for permanent operation and maintenance. Completes curation of the project wide cultural resources in the temporary facilities and transfer of artifacts to the new permanent repository. 1,013,000

Native Fish Protection -. Begins implementation of Section 7 Biological Opinion for the Santa Cruz River Basin including non-native fish eradication. Continues construction of the Santa Cruz fish barriers and work required to meet legal requirements under the Section 7 Biological Opinion for the Gila River including non-native fish eradication, native fish conservation and staff costs for monitoring of the Aravaipa and San Pedro fish barriers. 1,416,000

Total Other Project Costs 2,677,000

Subtotal, Water and Energy Management and Development **\$30,913,000**

Land Management and Development -

Hayden-Rhodes Aqueduct Recreation Development - Continues recreational development on the canal trail program. 569,000

Non-Federal Non-Cash Participation - City of Scottsdale (150,000)
419,000

Tucson Aqueduct Recreation - Continues recreational development of trails. 60,000

Subtotal, Land Management and Development **479,000**

Facility Operation -

Distribution Systems - Continues review of crop census reports; monitoring water district reserve funds, determining interest for non-agricultural water use and co-mingling fees; performing municipal and industrial conversion actions, collection actions on delinquent payments, and other administrative actions.

..... Colorado River Basin Project, Central Arizona Project

This work was previously performed in the revenue funded Colorado River Basin Project. The stipulated settlement of litigation between the Central Arizona Water Conservation District and the United States, removed this work from the revenue portion of project.

	105,000
Non-Federal: Various	<u>(55,000)</u>

Subtotal, Facility Operation	<u>50,000</u>
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Reclamation Request	\$31,442,000
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SEE APPENDIX FOR: Benefit Cost Ratios as of October 1, 2001
Land Certification
Obligations by Function for Operating Projects
Project Repayment FY 2002
Status of NEPA Compliance
Status of Repayment Contracts
Summary of Irrigation Investments